

FERGUSON'S LIBEL.

The Defense Moves for Dismissal.

Full Transcript of the Evidence in the Case.

The editor of the ADVERTISER was promptly on hand at the District Court Monday morning at 9:30 o'clock. He was there obedient to a summons issued by one Ferguson charging him with criminal libel by publishing a statement concerning Guatemala by a responsible gentleman named Antonio Cloys, who resides at present in Honolulu and who has had the benefit of personal experience in Guatemala.

Mr. A. S. Hartwell, who appeared as counsel for the arrested editor, was also present to respond to the complainant. Mr. Arthur Brown, deputy marshal, announced to the court that Mr. Charles Creighton, said Ferguson's attorney, had put in an appearance, but was on the anxious seat for the purpose of postponing the case he had precipitately projected into court.

After several minutes of weary waiting during which the spectators yawned and genial Paul looked solemn, the counsel of the aforesaid Ferguson in answer to enquiries by Judge Hartwell as to whether they appeared as prosecutors or defendants, looked at each other sheepishly and mumbled a reply not audible to the breathless spectators who were craning their necks backward.

At last came Mr. Creighton also, who asked at what time after Monday would be agreeable for the arrested editor and his counsel to appear again in the matter, as he (Mr. Creighton) was unable Monday to go to trial. To the reply of Mr. Hartwell that no time would be agreeable, Mr. Creighton amended his petition so as to read that he would like to know whether the court would postpone hearing the case until 1:30 P. M. next day. This Judge Robertson kindly consented to do, and the complainant and his attorney, followed by genial Paul, having obtained the indulgence asked, retired from the court room in tolerable good order—for the present.

The preliminary trial of the libel case against the ADVERTISER, brought by "Captain" Ferguson, was called Tuesday afternoon at 1:30 o'clock by Judge Robertson.

Mr. Charles Creighton presented the case and read the following charge:

Arthur Johnstone is charged with libel in the first degree in maliciously publishing and putting into circulation, for the purpose of making it known to others, an article entitled, "He Has Been There," printed in THE PACIFIC COMMERCIAL ADVERTISER, a newspaper published in Honolulu, Oahu, on the 12th day of August, 1893, of which article the following is a copy [Mr. Creighton reads article, which said article, and more especially that portion of it which reads: "Does Captain Ferguson think no one knows about his trip there with the steamer Monserrat? I was in San Jose at the time he landed his load of 'blackbirds,' and I think it would be safe to say that he would find himself in danger if caught alone with some of the South Sea Islanders he landed there. He is said to be promising the Japanese \$10 a month. Well, a dollar in that country is worth 50 cents in United States coin. They are called there 'poco tempo' dollars, which means 'mahope' dollars in Hawaiian. Now I defy Captain Ferguson, or any other person, to contradict what I state. Contract labor in Guatemala means traffic in human flesh," directly intended to injure the fame, reputation and good name of Walter H. Ferguson and to bring him into disgrace, abhorrence, odium, hatred, contempt and ridicule.

Judge Hartwell said that the offense of libel was unknown to the law. He wished to know whether the prosecution intends to rely upon the charge of making or publishing a libel. Mr. Creighton said they relied upon the charge of publishing a libel, as stated in the complaint. The charge specifies the offense.

Judge Robertson said he thought the charge was sufficient, and asked if the defense intended to waive examination.

Judge Hartwell said defendant relied upon his rights. Paul Neumann, sworn: Am subscriber to the ADVERTISER. It is a paper of large circulation. This is a copy of the paper of August 12. H. M. Whitney is manager; Arthur Johnstone, editor. Am acquainted with Captain Ferguson. Am familiar with Japanese scheme. Have read article in the ADVERTISER. There is but one Captain Ferguson; the one sitting there. He is the only one connected with the Japanese scheme. Have seen the contracts. This is a blank contract. All are like this, filled in with name of Captain Ferguson, as agent of the Guatemala government, the names of the Japanese laborers and the advances made them and signed. The amounts to be paid appear in the contracts; \$10 per month, in United States gold coin.

Judge Hartwell—Will you point out where U. S. gold is stipulated. Neumann—That is what is meant; it says \$10 in gold, doesn't it? I think the sentence referring to traffic in human flesh refers to Captain Ferguson driving a slave trade. (He here explained the sections mentioning gold payments in the contract.)

Cross-examination—I helped to draft the contract. I first knew Captain Ferguson nine or ten years ago. (Read Articles 3 and 11 of contract relating to payments being made in gold.) I have never examined the currency statute of Guatemala. Paper money there is not equivalent to gold; neither is silver. The difference is 33 to 37 per cent. Knew a U. S. decision had been made making legal payments in paper on gold contracts. Lots of people had told him what the statute of Guatemala was. One gentleman in San Francisco had told him what it was. I knew the state of the currency there. I think the ADVERTISER is a joint stock company. Have read the ADVERTISER with interest.

H. M. Whitney sworn—(Warned by Judge Robertson that he need not testify so as to criminate himself.) Know Mr. Johnstone. He is the editor, as published in the paper. The editorial department is in charge of the news. I am the manager of the Gazette Company. Mr. Johnstone is editor in chief.

Cross examination: The Gazette Company is a general stock company, with the usual officers. I am president of the company. The Hawaiian Gazette Publishing Company is the name of the corporation, and it does the publishing of the ADVERTISER and GAZETTE.

L. J. Levey sworn: Have been a subscriber of the ADVERTISER for ten years. It was delivered at my house on August 12th. I saw the carrier leave it. Have seen the paper in town. It has a large circulation. Know Ferguson by sight, but have never been introduced to him. I think the article refers to Captain Ferguson. Know no other Captain Ferguson.

No cross examination.

Captain Ferguson, sworn: My name is Walter H. Ferguson. Am a temporary resident. Left San Francisco June 7, by the Australia; got here June 13. Am the agent of the Guatemala government. Left there last February. Read the article in Neumann's office at 9 A. M. on August 12. This is a copy of the contract drawn between myself, the Guatemala government and the Japanese to be agricultural laborers. (Read the provisions relating to payments.) This is the only contract. The \$10 is United States gold coin or its equivalent in exchange. The currency of Guatemala is paper and silver. The bills are guaranteed by the government. Contracts are payable in U. S. gold coin. I have made such contracts. Paper is not on a par with gold. It runs from 132 to 173 on exchange. At 170 the rate would be \$17, in place of \$10. If you have a \$10 gold piece you get the benefit of the exchange. I was only connected with the Monserrat as the government agent of Guatemala. I superintended the expedition. I saw that the recruiting officers followed the law. This was last year. I arrived at San Jose de Guatemala on Sept. 14, 1892. Have been there since then. Have seen all the South Sea Islanders taken there. The statement in Cloy's letter is not true. I was with them last December and January. Have been to each and every plantation. They are at five plantations. I visited all five and saw the men. Captain Davis of the British man-of-war Royalist was in the South seas at the time. Was with us at four of the islands; was at one of the islands on two different days. The Islanders were the same as taken to Guatemala. They were all well satisfied, and spoke to me in glowing terms of their treatment and work. Some said they were treated better than in Fiji, New Zealand or Hawaii. The plantations are inland forty to seventy miles; are reached by wagon roads, railway and mule tracks. There are very few corrugated-iron roofs—only one or two; they are mostly thatched. The houses are built of wood. Never saw a luna carrying a revolver. I never heard of a laborer being shot. There are no Chinese there. There are no Japanese there, except the first lot forwarded from here. Have traveled from one end of the country to the other, mostly on the Pacific side. Have visited twenty plantations, and have been through the coffee section. The coffee belt is from 2500 to 4000 feet elevation. The condition of the plantations are good, and there are no chances of disease from the conditions of the laborers. The imported laborers have good quarters, corrugated roofs are the exception. [Reads the schedule of rations, and explained the details of transportation of Japanese.] No expense for transportation falls on the Japs. They do not want Chinese in Guatemala. It struck me the last sentence meant I was a slave dealer. Have recruited 149 laborers. Want 150.

Cross-examination—Do not know where the St. Louis lodging house is. Never asked for it. Don't know that any body ever went to the St. Louis lodging house. I went to Guatemala eighteen years ago. Made the trip across the country. Have two appointments as agent of the Guatemala government. One was for the trip to the South Sea Islands in November 1891, to recruit South Sea Islanders. This was signed by the president of Guatemala. The second was as government agent for recruiting Japanese immigrants in Hawaii and is dated May, 1893. I cannot produce the first as it has been sent to the Guatemala government. The second one is at Sans Souci. [Mr. Creighton stated it could be produced if called for.]

Judge Hartwell said he wished to have it produced.

Continuing Captain Ferguson testified: Have visited twenty plantations and have passed through forty. All have local names, [named the five plantations.] These five plantations run inland from 50 to 65 miles. Went by muleback and train. I was there December 15 to middle of February. There are no coffee plantations on low lands. None from 200 feet to 400 feet elevation. At least I never saw any. The lowest coffee trees are 1200 feet elevation. I have no forms of contracts made with the South Sea Islanders, but mentioned one could be procured. Have not seen Cloys. Have taken great pains to find him through my friends. Made

no enquiry at the station house. Do not know what the treatment of Japanese there is, because none have yet arrived there.

Morris K. Keohokalohe, sworn:—Am clerk in the interior office. [Identified the certificate filed according to law, in the interior office by the Hawaiian Gazette Company.]

These Hawaiian Japanese were recruited so that they could be trained to act as lunas for future importations of Japanese. We selected good, reliable men, with experience in plantation work. Had conversation with Mr. Johnstone. Charles Creighton was present. I went to inquire for Cloys, but Mr. Johnstone was not there. We went later. Found Mr. Johnstone. Said he did not know where Cloys lived, but that one of the ADVERTISER's reporters did. Said he did not believe the article was true, but as Cloys was willing to sign it he had published it. Later, at my request, he came to the window of Paul Neumann's office and said that Cloys lived at the St. Louis lodging-house. [Mr. Cloys at that time roomed there and is still occupying room No. 6 in that premises.] Neumann and Creighton tried to find Cloys, but could not do so. He was anxious for them to find Cloys. They wished to find out what he meant by publishing such an article. I intended to prosecute Antonio Cloys.

Mr. Creighton said if Judge Hartwell desired he would take the stand to show that he had hunted for Cloys. Judge Hartwell said the defense wished nothing.

Mr. Creighton sworn: I was asked if I would accept a retainer. [Smiles.] I replied that I would, under the circumstances. As soon as I was retained I tried to find Cloys until noon of Saturday, August 12th. I heard he was a Portuguese. Mr. Neumann and I got into a hack and went to the St. Louis lodging-house. Inquired for Cloys. They did not know such a man. [Mr. Cloys rooms at the house, and on his return that afternoon he was told Creighton and Neumann had called for him. His landlord told him this.] He had gone to the Portuguese settlement, but nobody knew Cloys. [Cloys is an American, born in Utah.] He had appealed to several Portuguese residents, but none of them knew Cloys.

Cross-examination: The landlord had stated that no such man as Cloys had been there within thirty days. [Cloys had been at the St. Louis lodging house for some time, is well known, and is rooming there now.]

Judge Hartwell asked by what statute or rule of law Mr. Johnstone was held in the present case. The Hawaiian Gazette Company was a corporation. Mr. Johnstone had no authority to perform what was charged in the complaint, viz., publishing a libel. Mr. Johnstone has nothing whatever to do with the publication of this alleged libel. The fact to be determined is whether Mr. Johnstone, as editor, incurs any liability for the publication of this article. It is not claimed that Mr. Johnstone has made any libel. If the charge was the making of a libel it would be different, but the charge had been confined to the publication of a libel, and that was why he had been particular to have the matter understood at the outset. He moved the charge be dismissed as there was no evidence to show that Mr. Johnstone had been guilty of publishing a libel.

Mr. Creighton said that although he had not cited authorities, neither had counsel for the defense. He claimed corporations could not be sued. He cited the case of the Provisional government against G. W. Macfarlane & Co., a corporation. He claimed that any one concerned in a corporation was responsible in law. The legal liability resided, in this case, in Mr. Johnstone. He was sorry for Mr. Johnstone, but Mr. Cloys could not be found. [Mr. Cloys was within twenty-five feet of Mr. Creighton at the time.] He was sorry for the editor of the ADVERTISER, but had the prosecution been able to find Cloys, Mr. Johnstone would be no more than an interested spectator. [Mr. Cloys, just outside the bar, smiled and put his handkerchief to his mouth to suppress an outburst.] Judge Hartwell said the question of criminal liability is not before the court, and is not to be discussed. Corporations can be held through the proper officers elsewhere, and he saw no reason why the editor should be held in this case for publishing a libel. He therefore saw no reason why Mr. Johnstone should not be discharged on the present charge.

Judge Robertson said he would reserve his decision until next Friday at 9:30 A. M.

SIGNIFICANT.

Are Native Hawaiian Juries a Failure?

The case of the Provisional government vs. Sam Kia was on trial Monday, last week, in Judge Whitney's court. The Hawaiian jury returned the somewhat unexpected verdict of "not guilty," three good men and true dissenting from the verdict.

Judge Whitney remarked, before he discharged the jury from that case, that it was an inexplicable verdict, but that he supposed the jury had found some cause for rendering the verdict they had. Deputy Attorney-General Wilder, at the conclusion of the case, asked for an adjournment of the court until he could consult with the attorney-general as to whether or not he would present any further cases before the native jury this term.

Banana pie.—Beat the yolks of two eggs to a cream with one-half cup of sugar. Peel and mash two large bananas or three small ones. Sift them and beat into the eggs, together with one and one-half cups of milk, or enough for a large pie. Bake with one crust, and when done cover with a meringue made of two whites and two table-spoonfuls of sugar. Serve cold.

HAS BEEN THERE TOO.

MR. BEN MASON KNOWS SOME-

THING OF GUATEMALA.

He Was There When the Black-birds Arrived.

HOW PRISONERS ARE TREATED.

The Fate Which Awaits the Japanese When Once Landed in Guatemala.

Mr. Ben Mason, who is well and favorably known in this country, and who has resided on these islands for a period of fifteen years, being employed in different capacities, returned a short time ago from an extended trip through South and Central America. Mr. Mason is a machinist by trade. During last year he resided in Guatemala, where he was employed by the Guatemala Railway Company. He remembers distinctly the arrival of 400 blackbird South Sea Islanders by the steamer Monserrat in that country last September. He remembers the occasion because the arrival of these slaves was the all absorbing topic in Guatemala at the time, and because he fitted out the engine in Guatemala that was required to carry the special train which had to be made up to convey these blackbirds from San Jose, where they landed, into the interior of the country.

Mr. Mason has made two trips to Central America, and has also traveled through San Salvador, Nicaragua and Costa Rica. He remained in Guatemala eight months on his last visit, and left that city during the month of February of this year, returning here by the way of Mexico and California.

As a consequence of these two visits, Mr. Mason is fully conversant with the history of Central America, her people and their mode of living. Learning that this paper had been attacked on account of some correspondence which appeared in its columns concerning the treatment of laborers on the coffee plantations in Guatemala, Mr. Mason has kindly volunteered to give the public the benefit of his knowledge in regard to how laborers are treated in that country, through the ADVERTISER.

"I have read the letter of Cloys," said Mr. Mason, "which was published in your paper a few days ago, and while I can verify the statements made therein, he did not go far enough, nor did he tell the half of the hellish things carried on in that country. The people of Guatemala are mostly thieves, murderers, cut-throats and the like. They are ignorant, vicious and bloodthirsty. The lunas on the plantations the most degenerate scoundrels on the face of the earth. They go heavily armed at all times and maltreat the slaves under them in the most horrible manner. He says the people of Guatemala are all Catholics, and that the priests run the government and the government runs the people. He verifies the statement of Professor Brigham that foreign contract laborers are not allowed to attend church or receive the benefits of the weekly holidays. He denies in toto the statement that coffee will not grow below an altitude of 2500 feet and says there are several plantations along the government road near Champanica, which are not over 800 feet elevation. The published statements regarding the manner in which contract laborers are fed on beans and jerked beef, and housed in corrugated iron buildings was also verified by Mr. Mason. He says further that there is no gold in circulation in that country at all, and that a silver dollar is worth but 50 cents in Guatemala.

Continuing Mr. Mason says that no coffee is grown on the Atlantic side, the entire country being low and swampy, heavily timbered and abounding with rank vegetation, and containing nothing but anacondas and adder snakes, monkeys, mountain lions, parrots, and birds of prey. Through this deadly swamp country the Guatemala government intends building a railway from Livingston to Guatemala, a distance of six days' travel by mule back, equalling about 125 miles.

The government has found it impossible to compel the native peons to work this line, and Mr. Mason believes that the blackbirds which were imported last year were brought out for the purpose of building that railway. He thinks if Japanese are imported into Guatemala they will be eventually compelled to labor on the railway mentioned. Once landed in Guatemala, the Japanese would be at the mercy of the contractors, and would either be compelled to abide by their wishes or be imprisoned or shot. It would be impossi-

ble for any one to live in that swampy country, and those who attempt it would meet with a horrible fate.

Mr. Mason would advise the Japanese on these islands not to change their residence to any portion of Central America, for at best their condition would be one of abject slavery.

Before bringing the interview to a close, Mr. Mason related an incident of how the guards treat those laborers who have been sentenced to the penitentiary. This is called the sleepy act. The guard affects drowsiness, and the unfortunate prisoner noting this and thinking he has a chance to escape, stops working a moment. As soon as this is done the guard deliberately raises his gun and fires upon the poor unfortunate.

MR. OLESON DEFENDED.

A Friend Points Out Facts Relating to the Case.

Mr. Editor: "Observer," in the Bulletin, quotes some language of Rev. Mr. Oleson's written before the queen's coup d'etat, opposing annexation. He then denounces him as a liar because, after that event, he changed his views and supported annexation.

Every one acquainted with friend Oleson knows him for a sincere and outspoken man. Before the revolution which the queen inaugurated, he clung to the old fashioned and settled missionary view that the monarchy must be supported and Hawaiian independence maintained. Some of the missionary connection had already come to see clearly that the native monarchy was rotten with corruption and hopelessly crazed with false ideals. They had already perceived that in the failure of the monarchy as a rallying point, the inharmonious elements here made an independent republic a doubtful if not impossible expedient for securing good and stable government. Union with America afforded the only hopeful solution for getting such government. They believed that Hawaii was so necessary strategically and commercially to the United States, that it was our ultimate destiny to become annexed to that republic.

Perhaps Mr. Oleson was somewhat lacking in appreciation of the existing conditions. He was certainly honest when he said that annexation was "not a question of practical politics." Like a good many other persons, the wicked and determined proceedings of the queen on the 14th of January last opened friend Oleson's eyes very wide indeed. He took the situation right in, and from that day went in with all his might for annexation as the one great hope and safety for honest and stable government in Hawaii.

All this "Observer" knows very well. His letter is written solely as a malicious attempt to discredit Mr. Oleson's powerful testimony abroad, by sending in evidence that he was against annexation a few months ago. The foolish royalists have themselves to thank for having lost his support by their wild folly of 14th January. The heinousness of their crime is illustrated by the change it wrought in the opinions of a man of such practical wisdom and honest patriotism as W. B. Oleson. EXPOSER.

Flight of Pigeons.

The following is the flight of pigeons belonging to Mr. Eben P. Low, taken on August 12, from Hilo, Hawaii, to Puhue ranch:

Name.	Left Hilo.	Arrived Puhue.	Total.
Rapidan.....	8:45 A. M.	8:50 A. M.	2 05
Colombian.....	7:01 A. M.	9:30 A. M.	2 52
Hail.....	7:15 A. M.	3:55 P. M.	8 40
Sweet.....	7:50 A. M.	9:24 A. M.	1 54

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Saved My Wife From the Grave. The salt rheum has entirely healed and she is restored to good health. I have many friends and relatives in the east who will be glad to know that.

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12 cent, mauve.....	6 00
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